

CITY OF TIGARD
ORDINANCE NO. 05- 16

AN ORDINANCE ADDING A NEW CHAPTER 9.08 TO THE TIGARD MUNICIPAL CODE TO ADOPT THE HERITAGE TREE PROGRAM

WHEREAS, this city is fortunate to have a number of large old trees that are a source of natural beauty in the present day and provide a connection with the city's past; and

WHEREAS, the Tigard Tree Board has proposed a program that will identify very large and old trees in the city, and encourage private landowners to preserve them; and

WHEREAS, the Council agrees with the Tree Board that these trees should be identified and protected.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard City Council hereby amends the Tigard Municipal Code by adding a new Chapter 9.08, as provided in Exhibit A.

SECTION 2: The Tigard City Council hereby amends the Tigard Municipal Code by renaming Title 9 to be "Parks and Heritage Trees," and by adding "Chapter 9.08 Heritage Trees" to the Title 9 index page.


SECTION 3: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By unanimous vote of all Council members present after being read by number and title only, this 8th day of November, 2005.


Catherine Wheatley, City Recorder

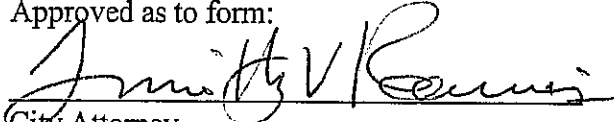
APPROVED:

By Tigard City Council this 8th day of November,
2005.



Craig Dirksen, Mayor

Approved as to form:


City Attorney

11.8.05

Date

G:\muni\Tigard\heritage trees ord.doc

Chapter 9.08 HERITAGE TREES

Sections:

- 9.08.010 Purpose; Definition**
- 9.08.020 Nomination**
- 9.08.030 Review Process**
- 9.08.040 Protection of Heritage Trees**
- 9.08.050 Recognition of Heritage Trees**
- 9.08.060 Removal of Heritage Tree Designation**
- 9.06.070 Incentives**

9.08.010 Purpose and Definitions.

(1) The purpose of this chapter is to foster appreciation and provide for voluntary protection of designated important trees within the Tigard City limits.

(2) A "Heritage Tree" is a tree or stand of trees that is designated to be of landmark importance due to age, size, species, horticultural quality or historical importance.

(3) "City Property" shall mean property owned by the City of Tigard or public right-of-way under City jurisdiction.

9.08.020 Nomination.

(1) Any person may nominate a particular tree or group of trees for "Heritage" status. If the proposed Heritage Tree is located on property other than City property, the nomination shall be submitted by the property owner or accompanied by the property owner's written consent. If the proposed Heritage Tree is located on City property, the nomination shall be submitted to the City Forester for evaluation. The City Forester and other City designees shall append his or her recommendation to the nomination.

(2) All nominations shall include a photograph of the tree(s) and a narrative explaining why the tree qualifies for Heritage status.

9.08.030 Review Process.

(1) The Tigard Tree Board shall review all Heritage Tree nominations at a public meeting. Notice of the meeting shall be provided to the nominating applicant, the property owner (if different than the applicant), the City Forester and the Chair of any recognized neighborhood association in which the tree is located.

(2) The City Forester shall prepare a report for the Tree Board analyzing whether the tree complies with the requirements for designation.

(3) After considering the City Forester's report and any testimony by

interested persons, the Tigard Tree Board shall vote on the nomination. The Board may designate the tree as a Heritage Tree if the Board determines that the following criteria are met:

(A) The tree or stand of trees is of landmark importance due to age, size, species, horticultural quality or historic importance; and

(B) The tree is not irreparably damaged, diseased, hazardous or unsafe, or the applicant is willing to have the tree treated by an arborist and the treatment will alleviate the damage, disease or hazard.

(4) If the nomination is approved by the Tree Board, it shall be forwarded, with all elements of the Board's evaluation attached, to the City Council for final evaluation and approval.

(5) Following approval of the nomination by the City Council:

(A) If the tree is located on private property, the designation shall be complete upon the property owner's execution of a covenant running with the land and duly recorded by the City. The covenant shall include a legal description of the subject property, generally describe the location of the heritage tree, and covenant that the tree is protected as a Heritage Tree by the City of Tigard and is therefore subject to special protection. The Heritage Tree shall be listed on the City Heritage Tree Registry.

(B) If the tree is located on City Property, the designation shall be complete upon the listing of the tree on the City Heritage Tree Registry.

9.08.040 Protection of Heritage Trees.

(1) A permit shall be required to remove a designated Heritage Tree.

(2) If an application for a permit to remove a Heritage Tree is presented, the applicant shall demonstrate that the tree is hazardous or that the burden imposed on the owner outweighs the public benefit provided by the tree. For the purposes of making this determination, the following tree impacts shall not be considered unreasonable burdens on the property owner or City:

(A) View obstruction;

(B) Routine pruning, leaf raking and other maintenance activities; and

(C) Infrastructure impacts or tree hazards that can be controlled or avoided by appropriate pruning or maintenance.

(3) Unless there is a permit to remove a dead or hazardous Heritage Tree, the applicant shall be required to follow the mitigation procedures for the loss of the tree as outlined in the Tigard Municipal Code, Chapter 18.790.

(4) Any person who removes a Heritage Tree without first obtaining a permit to do so shall be subject to a civil penalty equal to twice the value of the tree as determined by the City Forester with reference to the current edition of Guide to Plant Appraisal, and the person shall be required to mitigate for the loss of the tree.

9.08.050 Recognition of Heritage Trees.

(1) A Heritage Tree plaque may be designed and may be furnished by the City to the property owner of a designated Heritage Tree, or if the tree is on City property, to the City Forester. The plaque shall be posted at or near the tree and, if feasible, visible from a public right-of-way.

(2) The City shall maintain a Heritage Tree Registry and map of designated Heritage Trees.

9.08.060 Removal of Heritage Trees Designation.

(1) A Heritage Tree shall be removed from designation if it dies.

(2) To request permission to remove a tree from Heritage designation, the interested party or parties shall submit to the City Forester a narrative clearly stating justification for removal. The City Forester shall review the request, append his or her recommendations to the request and submit the request and recommendation to the City Council for a final decision.

(3) If the Heritage Tree is on private property, and removal from Heritage designation is approved, the City shall provide a document extinguishing the covenant running with the property, which may be recorded by the property owner.

(4) Once Heritage Tree status is removed, the City shall remove the tree from their map, the tree shall be removed from the Heritage Tree Registry and any plaque associated with the tree shall be returned to the City Forester.

(5) Once Heritage designation is removed, the tree shall be treated as any other tree within the City limits for purposes of planning, development, removal or care.

9.08.070 Incentives.

(1) Incentives for property owners might include:

(A) The City paying for pruning, necessary soil amendments and maintenance of the Heritage Trees; and

(B) The City providing a plaque for each tree identifying the species of tree.